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From: Sachi A. Hamai  
Interim Chief Executive Officer

### SACRAMENTO UPDATE - MEDICAL MARIJUANA LEGISLATION

#### Executive Summary

On September 11, 2015, the Legislature adopted a three-bill compromise package to regulate commercial medical marijuana which reflects an agreement that was reached with the authors of the measures and the Brown Administration. The three bills, **AB 243 (Wood)**, **266 (Bonta)**, and **SB 643 (McGuire)**, contain provisions to make the enactment contingent on the passage of all three measures.

#### Existing Law

Proposition 215, the Compassionate Use Act (CUA) approved by the voters in November 1996, provides protection from criminal sanctions for patients and their primary caregivers to obtain, use, and cultivate marijuana for personal medical use, and their physicians who recommend marijuana for treatment. SB 420 (Chapter 875, Statutes of 2003) enacted the Medical Marijuana Program Act (MMPA) which clarifies the scope of the application of the CUA, which, among other things, established a statewide voluntary medical marijuana identification card program for eligible patients and their primary caregivers administered by the local health officer. The MMPA also expanded the protections afforded patients and their caregivers to allow the collective and cooperative cultivation of marijuana, and was the genesis for the establishment of medical marijuana dispensaries (MMDs).

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In 2010, the Board of Supervisors adopted an ordinance to ban MMDs in the County unincorporated areas. While many incorporated cities have also banned dispensaries within their city limits, some cities have adopted ordinances to allow and regulate MMDs, most notably, the City of Los Angeles.

### **Overview of Medical Marijuana Legislative Compromise**

AB 243 (Wood), AB 266 (Bonta), and SB 643 (McGuire) together would enact the Medical Marijuana Regulation and Safety Act (Act), a statewide comprehensive framework to regulate licensing and enforcement of commercial medical marijuana. The Act would be administered and overseen by the newly created Bureau of Medical Marijuana Regulations (Bureau) within the California Department of Consumer Affairs with support from various State agencies. The Act provides uniform standards statewide, but does not preclude a local jurisdiction from implementing additional standards. Highlights of the Act include:

1. Preserves and maintains control for local jurisdictions to retain its police power authority to ban, or to permit and regulate, medical marijuana dispensaries within its borders.
2. Continues to prohibit marijuana statewide for non-medical use.
3. Establishes an annual dual licensing structure for all medical marijuana activities and requires applicants to be first issued a local license before being allowed to apply for a State license.
4. Permits counties that allow commercial medical marijuana within its borders to assess fees and taxes, subject to voter approval.
5. Exempts counties from any liability or expense for dispensaries that are issued a license within a participating incorporated city, shifting the responsibility of any regulatory function related to that activity from the county to the city.

Specific provisions of the Act addresses, among other things:

- Prescribing Physicians - Establishes violations for professional misconduct, conflict of interest, etc.
- Cultivation - Regulates licensing for indoor and outdoor cultivation based on the type of crop and caps licensed cultivators at four acres. Develops standards for pesticides. Requires a unique identifier to track and trace each crop. Requires

the State to create a database to track medical marijuana throughout the chain of distribution.

- Environmental Regulations - Requires adherence with State and local laws addressing land conversion, grading, electricity usage, water usage, agricultural discharges and similar matters that may adversely impact fish and wildlife. Creates a multiagency taskforce to address the environmental impact of marijuana cultivation on public and private lands, as well as illegal water diversion and waste discharge.
- Distribution - Ensures that weighing and measuring devices used for sale or distribution adhere to State standards. Regulates labeling and tamper-evident packaging to ensure that it is not attractive to children.
- Transportation - Prohibits medical marijuana products from being transported to or from an unlicensed facility. Requires prior to delivering medical marijuana products, a licensed transporter to electronically submit a manifest or shipping inventory list to the Bureau and the licensed receiving party. Upon receipt of the transported delivery, the licensed receiving party must submit to the State licensing agency a record verifying full receipt of inventory.
- Laboratory Testing - Requires all medical marijuana products to be tested in an accredited testing laboratory, registered with the State Department of Public Health, prior to sale or dispensing. Testing would measure, at minimum, the concentration and purity of the medical marijuana, and the presence of pesticides, mold, and other contaminants.
- Dispensaries - Requires onsite security measures including diversion, theft and loss prevention. Specifies that dispensaries can only deliver in a local jurisdiction that does not explicitly prohibit it by local ordinance. Continues to prohibit dispensaries from operating within a 600-foot radius of a school.

These measures also provide a grace period for existing licensed patients and their qualified caregivers to transition to the new dual licensing scheme.

If enacted, the mandates would become effective January 1, 2016. Provisions of these measures will be implemented once the State begins issuing licenses. Until then, licensed operators that were in compliance with State and local zoning ordinances prior to January 1, 2018 may continue to operate until their application, under the new licensing structure, is approved or denied.

### **County Impact**

**As a result of the County's ban on MMDs in unincorporated areas, the County's role and responsibility for the regulation of medical marijuana is currently limited.** As required by State law, the Department of Public Health (DPH) administers countywide the voluntary Medical Marijuana Program Identification Card mandated by SB 420. The Department of Regional Planning enforces the zoning code which bans MMDs in all unincorporated areas. In addition, the Sheriff Department responds to State medical marijuana-related violations, in both the unincorporated areas of the County and those cities that contract for law enforcement services.

Should the Governor sign the medical marijuana package, County Counsel indicates that because the County's ordinance does not address cultivation and delivery services, Board action would be required to amend the County's ordinance to prohibit these medical marijuana activities within the County's borders. County Counsel also notes that notwithstanding State law, under Federal law, all uses of marijuana, medical or non-medical, remain illegal; however, these laws are rarely enforced, except in some circumstances (e.g., transporting across states, selling to minors, etc.).

The medical marijuana package would provide a broad framework to regulate licensing and enforcement. However, programmatic and operational details of these measures are anticipated to be further developed through the State regulatory process.

This office will continue to work with affected departments to determine the potential County impact of these measures.

We will continue to keep you advised.

SAH:JJ:MR  
VE:TOF:ma

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